

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TXI Operations, LP,

Plaintiff;

v.

City of McKinney, Texas,

Defendant.

Case No. 4:20-cv-00353

and

TXI Operations, LP,

Plaintiff;

v.

City of McKinney, Texas, and the Board
of Adjustment for the City of McKinney,

Defendants.

Case No. 4:20-cv-609

JOINT STATUS REPORT

Plaintiff, TXI Operations, LP (“TXI”), and Defendants City of McKinney, Texas and the Board of Adjustment for the City of McKinney (together, the “City”) (TXI and the City, also collectively referred to as the “Parties”) file this Joint Status Report and respectfully show this Court as follows:

STATUS UPDATE

On April 19, 2021, the Court entered an Order (Dkt. 37) granting the Parties’ Joint Motion to Stay Case (Dkt. 36) until July 19, 2021 to allow the Parties an opportunity to pursue extended

settlement discussions (the “Order”). The Order also set a July 16, 2021 deadline for the Parties to submit to the Court a joint status update on their settlement discussions.

Since the Order, the Parties have continuously engaged in settlement discussions and have exchanged multiple related settlement proposals. Initially, TXI submitted a term sheet as the basis for in-person discussions. Thereafter, the parties and counsel held an in person meeting to discuss those and other terms. Following that initial meeting the parties have exchanged multiple drafts of proposed terms but have not been able to agree on those terms. The parties have conceptual agreement on some topics, but significant disagreement on other key topics. The subject matter of the discussions has included a wide range of topics, from how the existing property at issue in the lawsuit will be treated, to how new property acquired by TXI will be treated. Thereafter, the City requested formal mediation in anticipation that an independent mediator could assist in resolving areas of disagreement, but TXI did not agree that mediation would be helpful at this time.

The Parties therefore jointly request that the Court permit the Parties to submit within twenty-days a proposed amended scheduling order re-setting the deadlines in the Court’s January 13, 2021 Consolidated Scheduling Order (Dkt. 35) that had not yet elapsed at the time the Order was entered.

CONCLUSION

For the reasons stated herein, Plaintiff, TXI Operations, LP, and Defendants City of McKinney, Texas and the Board of Adjustment for the City of McKinney, Texas respectfully request that the Court grant the Parties’ request to submit a proposed amended scheduling order within twenty-days of the date of filing.

Respectfully submitted,

By: /s/ Brian H. Oates

MARK T. JOSEPHS
Texas Bar No. 11031400
mjosephs@jw.com
BRIAN H. OATES
Texas Bar No. 24088144
boates@jw.com

JACKSON WALKER LLP
2323 Ross Avenue, Suite 600
Dallas, Texas 75201
Telephone: (214) 953-6000
Facsimile: (214) 953-5822

ATTORNEYS FOR PLAINTIFF

By: /s/ Darrell G-M Noga

DARRELL G-M NOGA
Texas Bar No. 00785326
darrell@brownfoxlaw.com
CHRISTOPHER A. KLEMENT
Texas Bar No. 24090212
chris@brownfoxlaw.com

BROWN FOX PLLC
8111 Preston Road, Suite 300
Dallas, Texas 75225
Telephone: (214) 327-5000
Facsimile: (214) 327-5001

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

On July 16, 2021, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Eastern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

By: /s/ Brian H. Oates
BRIAN H. OATES

CERTIFICATE OF CONFERENCE

On July 15, 2021, the undersigned, as counsel for Plaintiff, conferred with Darrell Noga, counsel for Defendants, regarding the foregoing report. Mr. Noga indicated that Defendants were in agreement with the report and joins in the motion.

By: /s/ Brian H. Oates
BRIAN H. OATES